



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion

The Office of Investigative Programs in the Montgomery County Fire and Rescue Service (MCFRS)¹ is investigating “a complaint . . . that a volunteer firefighter, and the volunteer fire corporation he volunteers for, are in violation of the Montgomery County Ethics Code.” Before investigating further, the Fire Administrator “has asked for a ruling from the Ethics Commission to verify that this behavior, if it can be established that it did occur, constitutes a violation of the County Ethics Code.”

The Commission cannot provide the requested “ruling” because an advisory opinion is solely concerned with future conduct. The purpose of an advisory opinion is to provide the requester with an opinion regarding the ethics law **before** any possible violation occurs. The Commission cannot issue an advisory opinion regarding past conduct, which is obviously what MCFRS is investigating in this case. Allegations regarding past conduct may be addressed via the Commission’s complaint process. The purpose of a complaint is to determine what conduct occurred and whether it violated the ethics law. If MCFRS wants the Commission to investigate and issue a ruling on this matter, it must file a complaint as provided in §§ 19A-9 and 10.

Finally, the Fire Administrator cannot investigate a complaint alleging a violation of the County ethics law, Chapter 19A of the County Code. The Commission is the only agency with jurisdiction over those complaints. The Fire Administrator may only resolve violations of Fire and Rescue Commission Regulation No. 22-00AM (“Code of Ethics and On-Duty Personal Conduct”) under § 21-19.

FOR THE COMMISSION

[signed]

Elizabeth K. Kellar, Chair

¹ MCFRS is a department within the County government. The Fire Administrator is the head of that department. Montgomery County Code §§ 1A-201(A)(1), 2-39A(b), and 21-3(b).